

Receipt Number

551927

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN Exhibits A-S

E.A. SWEEN COMPANY, a Minnesota
Corporation,

Plaintiff,

vs.

MIKE'S DELI EXPRESS, INC., a Michigan
Corporation,

Defendant.

Case: 2:06-cv-15536

Assigned To: Steeh, George Caram

Referral Judge: Whalen, R. Steven

Filed: 12-13-2006 At 02:42 PM

CMP E.A. SWEEN CO V. MIKE'S DE

LI EXPRESS INC (TAM)

COMPLAINT

(Jury Trial Demanded)

COMES NOW Plaintiff, E.A. Sween Company d/b/a Deli Express ("Plaintiff") as and for its Complaint against Defendant, Mike's Deli Express, Inc. ("Defendant"), states and alleges as follows:

PARTIES

1. Plaintiff, E.A. Sween Company d/b/a Deli Express is a Minnesota Corporation whose principal place of business is located at 16101 West 78th Street, Eden Prairie, Minnesota 55344.

2. Defendant, Mike's Deli Express, Inc. is a Michigan Corporation whose principal place of business is located at 605 South Saginaw Street, Flint, Michigan 48502-1505.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over the claims asserted in this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338, and 1367. The claims alleged in this Complaint arise under the Lanham Act, 15 U.S.C. § 1051 (2006), *et seq.*, MICH. COMP. LAWS § 445.903 Sec. 3(1)(a) (2006), and Michigan Common Law.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because, upon information and belief, Defendant's principal place of business is located within this district and division, and the conduct which forms the basis of the claims occurred in whole or in part in this judicial district.

BACKGROUND

5. Plaintiff is engaged in the business of making and selling convenience food products; including, among others, sandwiches, burritos, hot dogs, breakfast foods, bakery products, and coffee under its well-known DELI EXPRESS® brand name and mark. Attached as Exhibit A are true and correct copies of photos showing samples of some of Plaintiff's DELI EXPRESS® brand sandwiches.

6. Plaintiff's DELI EXPRESS® brand sandwiches and other convenience food products are sold across the continental United States including in and about Flint, Michigan. Plaintiff's DELI EXPRESS® sandwiches are the top selling brand of convenience food sandwiches in the United States. Each week, more than 1 million DELI EXPRESS® brand sandwiches are sold across the country; including within this judicial district. Plaintiff's DELI EXPRESS® brand sandwiches are available through a variety of retail outlets; including, among others, convenience stores, delis, drug stores, gas stations, truck stops, resorts, and vending machines. In addition, Plaintiff provides fast food restaurant and convenience store services under the well-known and famous DELI EXPRESS® mark.

7. In addition to its underlying common law rights in the DELI EXPRESS® brand and mark, Plaintiff is the owner of many United States trademark and service mark registrations that consist of or comprise the DELI EXPRESS® brand name and mark. Plaintiff owns the following federal registrations for or containing DELI EXPRESS®:


Exhibit	Mark	Status	Goods/Services	Owner
B	DELI EXPRESS	Registered 1220359	Distributorship services in the field of pre-packaged processed convenience foods, and equipment for preparing such foods	E.A. Sween Company
C	DELI EXPRESS	Registered 1265869	Prepackaged, processed convenience foods- namely, meat and cheese specialty sandwiches, hot dog sandwiches, beef burger sandwiches, cheeseburger sandwiches, pizza, burritos, sweet rolls, sugar, coffee and hot chocolate	E.A. Sween Company
D		Registered 1273109	Distributorship services in the field of prepackaged processed convenience foods, and equipment for preparing such foods	E.A. Sween Company





Exhibit	Mark	Status	Goods/Services	Owner
E		Registered 1280049	Prepackaged, processed convenience foods- namely, meat and cheese specialty sandwiches, hot dog sandwiches, beef burger sandwiches, cheeseburger sandwiches, pizza, burritos, sweet rolls, sauces excluding applesauce and cranberry sauce, seasonings, sausage and biscuit sandwiches, sugar, coffee and hot chocolate	E.A. Sween Company
F	DELI EXPRESS HOME STYLE	Registered 1693388	Prepackaged sandwiches	E.A. Sween Company
G	DELI EXPRESS	Registered 2544922	Sandwiches for consumption on and off the premises	E.A. Sween Company
H		Registered 2591258	Sandwiches for consumption on and off the premises	E.A. Sween Company
I	DELI EXPRESS	Registered 2759045	Snack foods, namely, meat	E.A. Sween Company
J	DELI EXPRESS SUB SELECTS	Registered 2837054	Sandwiches for consumption on and off the premises	E.A. Sween Company
K	DELI EXPRESS	Registered 2859981	Retail convenience stores	E.A. Sween Company
L		Registered 2886261	Snack foods, namely, meat	E.A. Sween Company
M	DELI EXPRESS	Registered 2910324	Fast food restaurant services	E.A. Sween Company

Exhibit	Mark	Status	Goods/Services	Owner
N	DELI EXPRESS	Registered 2962330	Sandwiches, muffins, cakes, rolls, turnovers, donuts, and cappuccino	E.A. Sween Company
O	DELI EXPRESS	Registered 3079600	Microwave ovens for cooking	E.A. Sween Company
P		Registered 3103557	Sandwiches	E.A. Sween Company
Q	DELI EXPRESS SNACKERS	Registered 3152283	Bakery products including muffins, pastries and cakes	E.A. Sween Company

A true and correct copy of the Certificates of Registration are attached hereto as Exhibits B - Q.

8. Plaintiff's DELI EXPRESS® mark is well known, famous, and distinctive. In 2001, Deli Express® was voted Vendor of the Year and inducted into the Convenience Store Industry Hall of Fame. Past recipients of this honor include such companies as Anheuser-Busch, Frito Lay, Coca Cola, and M&M/Mars. Plaintiff's well-known and famous DELI EXPRESS® brand is co-branded with other famous food industry marks and brands; including JIMMY DEAN® meats, ARMOUR® ham, BUTTERBALL® turkey, and HOT POCKETS® pizza. Attached as Exhibit R are photos showing samples of some of Plaintiff's co-branded DELI EXPRESS® food products.

9. Plaintiff learned that Defendant is using the DELI EXPRESS mark without Plaintiff's authorization or consent in connection with the sale of take-out sandwiches and is operating a fast food restaurant under a name that incorporates the entirety of Plaintiff's well-known and famous DELI EXPRESS® brand and mark; namely, MIKE'S DELI EXPRESS. Attached as Exhibit S are true and correct copies of marketing materials showing some of Defendant's unauthorized use of Plaintiff's DELI EXPRESS® mark.

10. Despite receiving actual notice of Plaintiff's federally-registered DELI EXPRESS® mark and Plaintiff's repeated requests that Defendant cease its unauthorized use, Defendant has refused to stop using Plaintiff's DELI EXPRESS® mark.

COUNT 1
Trademark Infringement
(Lanham Act § 32, 15 U.S.C. § 1114)

11. Plaintiff restates and incorporates by reference the allegations in Paragraphs 1-10.

12. Plaintiff is and has been the owner of United States Service Mark Registration No. 1,220,359 for the mark DELI EXPRESS in connection with "distributorship services in the field of pre-packaged processed convenience foods, and equipment for preparing such foods" since its registration on the Principal Register on December 14, 1982. The mark is now incontestable pursuant to 15 U.S.C. §§ 1065 and 1115(b). *See, supra* ¶ 7, Exhibit B.

13. Plaintiff's United States Service Mark Registration No. 1,220,359 for the mark DELI EXPRESS is valid and legally protectable.

14. Plaintiff is and has been the owner of United States Trademark Registration No. 1,265,869 for the mark DELI EXPRESS in connection with "prepackaged, processed convenience foods-namely, meat and cheese specialty sandwiches, hot dog sandwiches, beef burger sandwiches, cheeseburger sandwiches, pizza, burritos, sweet rolls, popcorn, seasonings, sugar, coffee, and hot chocolate" since its registration on the Principal Register on January 31, 1984. The mark is now incontestable pursuant to 15 U.S.C. §§ 1165 and 1115(b). *See, supra* ¶ 7, Exhibit C.

15. Plaintiff's United States Trademark Registration No. 1,265,869 for the mark DELI EXPRESS is valid and legally protectable.

16. Plaintiff is and has been the owner of United States Service Mark Registration No. 1,273,109 for the mark DELI EXPRESS & Design in connection with "distributorship services in the field of pre-packaged processed convenience foods, and equipment for preparing such foods" since its registration on the Principal Register on April 3, 1984. The mark is now incontestable pursuant to 15 U.S.C. §§ 1165 and 1115(b). *See, supra* ¶ 7, Exhibit D.

17. Plaintiff's United States Service Mark Registration No. 1,273,109 for the mark DELI EXPRESS & Design is valid and legally protectable.

18. Plaintiff is and has been the owner of United States Trademark Registration No. 1,280,049 for the mark DELI EXPRESS & Design in connection with "prepackaged, processed convenience foods-namely, meat and cheese specialty sandwiches, hot dog sandwiches, beef burger sandwiches, cheeseburger sandwiches, pizza, burritos, sweet rolls, sauces, excluding applesauce and cranberry sauce, seasonings, sausage and biscuit sandwiches, sugar, coffee, and hot chocolate" since its registration on the Principal Register on May 29, 1984. The mark is now incontestable pursuant to 15 U.S.C. §§ 1165 and 1115(b). *See, supra* ¶ 7, Exhibit E.

19. Plaintiff's United States Trademark Registration No. 1,280,049 for the mark DELI EXPRESS & Design is valid and legally protectable.

20. Plaintiff is and has been the owner of United States Trademark Registration No. 1,693,388 for the mark DELI EXPRESS HOME STYLE in connection with "prepackaged sandwiches" since its registration on the Principal Register on June 9, 1992. The mark is now incontestable pursuant to 15 U.S.C. §§ 1165 and 1115(b). *See, supra* ¶ 7, Exhibit F.

21. Plaintiff's United States Trademark Registration No. 1,693,388 for the mark DELI EXPRESS HOME STYLE is valid and protectable.

22. Plaintiff is and has been the owner of United States Trademark Registration No. 2,544,922 for the mark DELI EXPRESS in connection with "sandwiches for consumption on and off the premises" since its registration on the Principal Register on March 5, 2002. *See, supra* ¶ 7, Exhibit G.

23. Plaintiff's United States Trademark Registration No. 2,544,922 for the mark DELI EXPRESS is valid and protectable.

24. Plaintiff is and has been the owner of United States Trademark Registration No. 2,591,258 for the mark DELI EXPRESS & Design in connection with "sandwiches for consumption on and off the premises" since its registration on the Principal Register on July 9, 2002. *See, supra* ¶ 7, Exhibit H.

25. Plaintiff's United States Trademark Registration No. 2,591,258 for the mark DELI EXPRESS & Design is valid and protectable.

26. Plaintiff is and has been the owner of United States Trademark Registration No. 2,759,045 for the mark DELI EXPRESS in connection with "snack foods, namely, meat" since its registration on the Principal Register on September 2, 2003. *See, supra* ¶ 7, Exhibit I.

27. Plaintiff's United States Trademark Registration No. 2,759,045 for the mark DELI EXPRESS is valid and protectable.

28. Plaintiff is and has been the owner of United States Trademark Registration No. 2,910,324 for the mark DELI EXPRESS in connection with "fast food restaurant services" since its registration on the Principal Register on December 14, 2004. *See, supra* ¶ 7, Exhibit M.

29. Plaintiff's United States Trademark Registration No. 2,910,324 for the mark DELI EXPRESS is valid and protectable.

30. Plaintiff is and has been the owner of United States Trademark Registration No. 2,962,330 for the mark DELI EXPRESS in connection with “sandwiches, muffins, cakes, rolls, turnovers, donuts, and cappuccino” since its registration on the Principal Register on June 15, 2005. *See, supra* ¶ 7, Exhibit N.

31. Plaintiff’s United States Trademark Registration No. 2,962,330 for the mark DELI EXPRESS is valid and protectable.

32. Plaintiff is and has been the owner of United States Trademark Registration No. 3,079,600 for the mark DELI EXPRESS in connection with “microwave ovens for cooking” since its registration on the Principal Register on April 11, 2006. *See, supra* ¶ 7, Exhibit O.

33. Plaintiff’s United States Trademark Registration No. 3,079,600 for the mark DELI EXPRESS is valid and protectable.

34. Plaintiff is and has been the owner of United States Trademark Registration No. 3,103,557 for the mark DELI EXPRESS TORPEDO FAMILY OWNED SINCE 1955 & Design in connection with “sandwiches” since its registration on the Principal Register on June 13, 2006. *See, supra* ¶ 7, Exhibit O.

35. Plaintiff’s United States Trademark Registration No. 3,103,557 for the mark DELI EXPRESS TORPEDO FAMILY OWNED SINCE 1955 & Design is valid and protectable.

36. Plaintiff is and has been the owner of United States Trademark Registration No. 3,152,283 for the mark DELI EXPRESS SNACKERS in connection with “bakery products including muffins, pastries and cakes” since its registration on the Principal Register on October 3, 2006. *See, supra* ¶ 7, Exhibit P.

37. Plaintiff's United States Trademark Registration No. 3,152,283 for the mark DELI EXPRESS SNACKERS is valid and protectable.

38. For well over two decades, Plaintiff has used the listed federally registered DELI EXPRESS® trademarks and service marks to identify its food products and related services and to distinguish them from those made, offered, and sold by others, by, among other things, prominently displaying the federally registered DELI EXPRESS® trademarks on its products, its containers, and the displays associated therewith, and the federally registered service marks in connection with the promotion and advertising of the services.

39. Plaintiff has used the ® registration notice in association with the DELI EXPRESS® mark on its goods, in connection with its services, and in advertising.

40. Plaintiff has expended considerable time, effort, and sums of money in the development, preparation, promotion, sale, and protection of its DELI EXPRESS® branded food products and related services and its DELI EXPRESS® marks. Plaintiff's DELI EXPRESS® mark has become associated with and identifies E.A. Sween Company and its products and services.

41. Notwithstanding Plaintiff's well-known, prior common law and statutory rights in the DELI EXPRESS® marks, Defendant adopted, used, and is continuing to use the identical DELI EXPRESS mark, and/or has knowingly contributed to the adoption, use, and continuing use of the infringing DELI EXPRESS mark, with actual and/or constructive knowledge of Plaintiff's prior use and registration of the DELI EXPRESS® mark and brand. Upon information and belief, Defendant's continues to use, or knowing contribution to the use of, the DELI EXPRESS® mark and brand is with the intent to confuse and deceive consumers and to unjustly enrich Defendant at the expense of the public and Plaintiff.

42. Defendant has continued to use the infringing DELI EXPRESS mark despite Defendant's actual notice of Plaintiff's registrations and cease and desist letters from Plaintiff.

43. Defendant's use of the DELI EXPRESS mark is without license, approval, or consent of Plaintiff. As a result, Plaintiff is unable to control the nature and quality of the goods and services offered by Defendant under the infringing MIKE'S DELI EXPRESS name and mark.

44. Defendant's use of the mark DELI EXPRESS is likely to cause confusion, cause mistake, and deceive as to the affiliation, connection, or association of Defendant with Plaintiff as to the origin, sponsorship, or approval of Defendant's goods and services by Plaintiff. This use of DELI EXPRESS constitutes trademark infringement under 15 U.S.C. § 1114.

45. Defendant's unlawful actions have caused, and will continue to cause, Plaintiff irreparable harm unless enjoined.

46. Defendant has profited from its unlawful actions and has been unjustly enriched to the detriment of Plaintiff. Defendant's unlawful actions have caused Plaintiff monetary damage in an amount presently unknown, but in an amount to be determined at trial.

COUNT II
Federal Unfair Competition
(Lanham Act § 43(a); 15 U.S.C. § 1125(a))

47. Plaintiff restates and incorporates by reference the allegations in Paragraphs 1-20 and 12-46.

48. Upon information and belief, Defendant's use of DELI EXPRESS is a false designation of origin, false or misleading description of fact, and a false or misleading representation of fact.

49. Upon information and belief, Defendant's use of DELI EXPRESS is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association

of Defendant with Plaintiff, or as to the origin, sponsorship, or approval of Defendant's goods, services, or commercial activities by Plaintiff.

50. Defendant's unlawful actions have caused, and will continue to cause, Plaintiff irreparable harm unless enjoined.

51. Defendant has profited from its unlawful actions and has been unjustly enriched to the detriment of Plaintiff. Defendant's unlawful actions have caused Plaintiff monetary damage in an amount presently unknown, but in an amount to be determined at trial.

COUNT III

Dilution

(Lanham Act § 43(c), 15 U.S.C. § 1125(c))

52. Plaintiff restates and incorporates by reference the allegations in Paragraphs 1-10, 12-46, and 48-51.

53. Upon information and belief, Plaintiff's DELI EXPRESS® trademark is famous and widely recognized by the general consuming public of the United States as a designation of source of the goods and services of Plaintiff.

54. Upon information and belief, Plaintiff's DELI EXPRESS® trademark became famous and widely recognized by the general consuming public of the United States as a designation of source of the goods and services of Plaintiff prior to Defendant's first use of MIKE'S DELI EXPRESS.

55. Upon information and belief, Defendant's use of MIKE'S DELI EXPRESS impairs the distinctiveness of Plaintiff's DELI EXPRESS® mark and is likely to cause dilution by blurring of Plaintiff's mark DELI EXPRESS®.

56. Defendant's unlawful actions have caused, and will continue to cause, Plaintiff irreparable harm unless enjoined.

COUNT IV

Unfair, Unconscionable, and Deceptive Trade Practices
(MICH. COMP. LAWS §§ 445.903 Sec. 3(1)(a); 445.903(1), (2))

57. Plaintiff restates and incorporates by reference the allegations in Paragraphs 1-10, 12-46, 48-51, and 53-56.

58. Upon information and belief, Defendant's use of DELI EXPRESS will probably cause confusion or misunderstanding as to the source, sponsorship, approval, or certification of Defendant's and Plaintiff's goods and services.

59. Defendant's unlawful actions have caused, and will continue to cause, Plaintiff irreparable harm unless enjoined.

60. Defendant has profited from its unlawful actions and has been unjustly enriched to the detriment of Plaintiff. Defendant's unlawful actions have caused Plaintiff monetary damage in an amount presently unknown, but in an amount to be determined at trial.

COUNT V

Unfair Competition
(Michigan Common Law)

61. Plaintiff restates and incorporates by reference the allegations in Paragraphs 1-10, 12-46, 48-51, 53-56, and 58-60.

62. Upon information and belief, Defendant's use of DELI EXPRESS in connection with its business is an attempt to confuse consumers into believing Defendant's goods are Plaintiff's goods.

63. Defendant's unlawful actions have caused, and will continue to cause, Plaintiff irreparable harm unless enjoined.

64. Defendant has profited from its unlawful actions and has been unjustly enriched to the detriment of Plaintiff. Defendant's unlawful actions have caused Plaintiff monetary damage in an amount presently unknown, but in an amount to be determined at trial.

COUNT VI
Trademark Infringement
(Michigan Common Law)

65. Plaintiff restates and incorporates by reference the allegations in Paragraphs 1 -10, 12-46, 48-51, 53-56, 58-60, and 62-64.

66. Defendant's actions constitute willful, deliberate, and intentional trademark infringement in violation of the common law of the State of Michigan.

67. Defendant's unlawful actions have caused, and will continue to cause, Plaintiff irreparable harm unless enjoined.

68. Defendant has profited from its unlawful actions and has been unjustly enriched to the detriment of Plaintiff. Defendant's unlawful actions have caused Plaintiff monetary damage in an amount presently unknown, but in an amount to be determined at trial.

WHEREFORE, Plaintiff prays that the Court enter judgment:

1. In favor of Plaintiff and against Defendant on all of Plaintiff's claims;
2. Enjoining and restraining Defendant, its officers, agents, servants, employees, attorneys and all others in active concert or participation with Defendant, during the pendency of this action and thereafter permanently from:

A. Doing business under the name DELI EXPRESS or any other name that contains both terms "DELI" and "EXPRESS" or any variation thereof;

B. Using the mark DELI EXPRESS and/or any confusingly similar designation alone or in combination with other words or designs, as a trademark, trade

name component or otherwise, to market, advertise, or identify products and services not produced or authorized by Plaintiff;

C. Otherwise infringing Plaintiffs DELI EXPRESS® marks;

D. Unfairly competing with Plaintiff in any manner whatsoever;

E. Causing likelihood of confusion, injury to business reputation, or dilution of the distinctiveness of Plaintiff's marks, symbols, labels, or forms of advertisement;

F. Causing likelihood of confusion, injury to business reputation, or dilution of the distinctiveness of Plaintiff's DELI EXPRESS® marks, symbols, labels, or forms of advertisement;

G. Using in any manner the phrase "DELI EXPRESS" and/or any name containing both terms "DELI" and "EXPRESS" or any variation thereof, in connection with any advertisement or promotion; and

H. Committing any other act or making any other statement which infringes Plaintiff's trademarks or service marks or constitutes an act of trademark or service mark infringement, contributory infringement, trademark dilution, or unfair competition under federal common law or the common law of the State of Michigan.

3. Requiring Defendant to permanently remove or cause to be permanently removed, the DELI EXPRESS designation from the corporation's place of business.

4. Requiring Defendant to deliver up, or cause to be delivered up, for destruction all labels, sign, prints, packages, wrappers, receptacles, advertisements, and all other materials in the possession or control of Defendant that infringe Plaintiffs DELI EXPRESS® marks;

5. Requiring Defendant to account for and pay over to Plaintiff the Defendant profits and all damages sustained by Plaintiff;

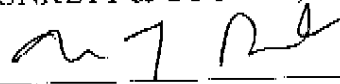
6. Trebling the amount of damages awarded Plaintiff pursuant to 15 U.S.C. §§ 1114 and 1117;

7. Awarding Plaintiff its attorney's fees, costs and expenses pursuant to 15 U.S.C. §§ 1114 and 1117; and

8. Awarding Plaintiff such other relief as the Court may deem just and equitable.

Dated: December 13, 2006

PLUNKETT & COONEY, P.C.



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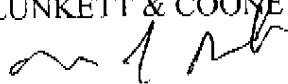
ATTORNEYS FOR PLAINTIFF
E.A. SWEEN COMPANY

JURY DEMAND

NOW COMES Plaintiff, E.A. Sween Company d/b/a Deli Express, by and through its attorneys, Plunkett & Cooney, P.C. and hereby demands a trial by jury relative to the above-entitled cause of action.

Dated: December 13, 2006

PLUNKETT & COONEY, P.C.



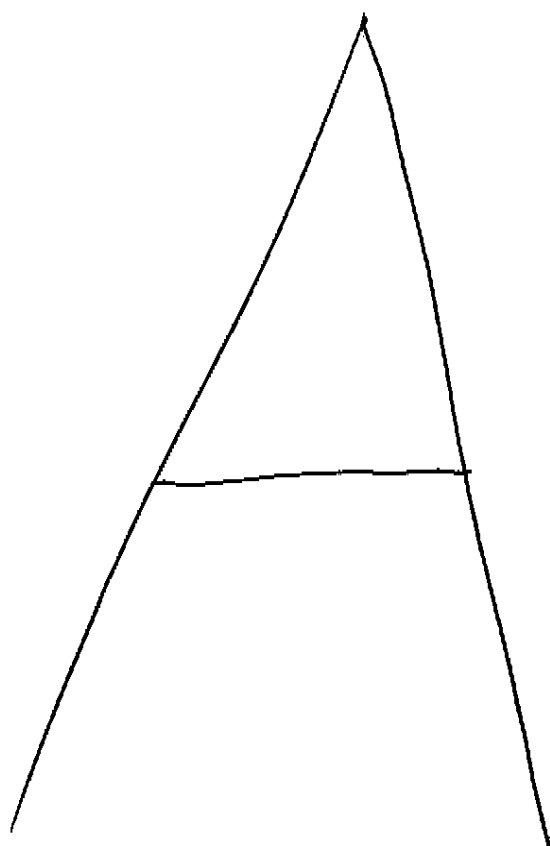
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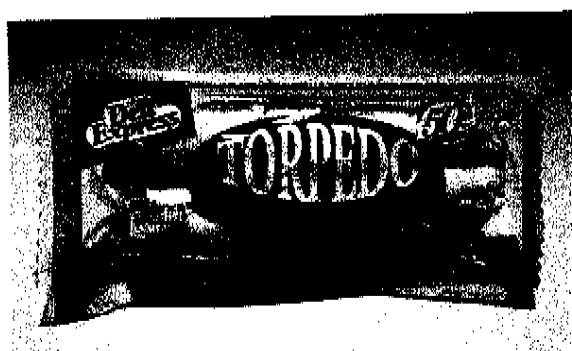
Of Counsel

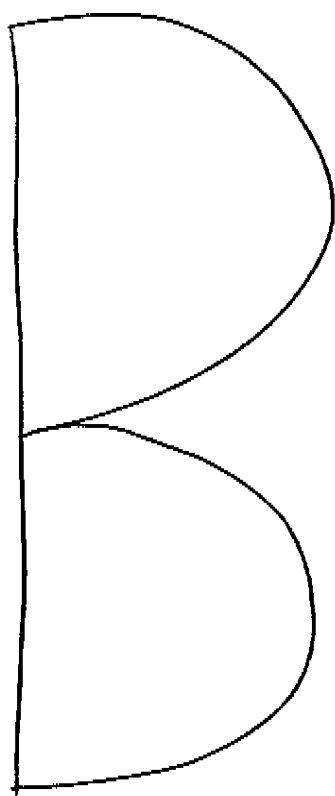
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Int. Cl: 42

Pr. : U.S. Cl: 101

United States Patent and Trademark Office

Reg. No. 1,220,359

Registered Dec. 14, 1982

SERVICE MARK

Principal Register

DELI EXPRESS

E. A. Sween Company (Minnesota corporation)
1610 W. 78th St.
Eden Prairie, Minn. 55344

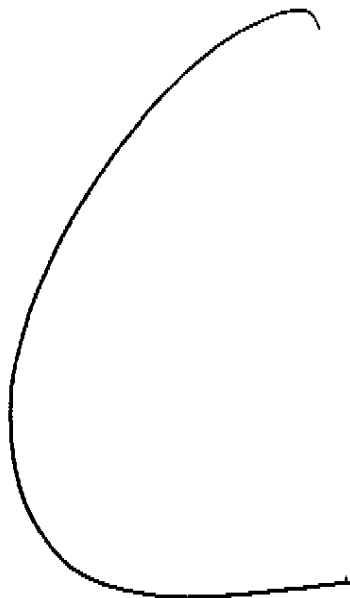
For: DISTRIBUTORSHIP SERVICES IN THE
FIELD OF PRE-PACKAGED PROCESSED
CONVENIENCE FOODS, AND EQUIPMENT
FOR PREPARING SUCH FOODS, in CLASS 42
(U.S. Cl. 101).

First use Jul. 15, 1980; in commerce Jul. 15, 1980.

Applicant disclaims registration rights in the
individual word "Deli" apart from the mark as shown
but waives none of its common law or other rights
therein.

Ser. No. 274,439, filed Aug. 18, 1980.

DAVID SOROKA, Examining Attorney

A large, handwritten capital letter 'C' in black ink, centered on the page. The letter is formed by a single continuous stroke, starting from the top right, curving around to the left, and then curving back to the right to close the loop.

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,265,869

Registered Jan. 31, 1984

TRADEMARK

Principal Register

DELI EXPRESS

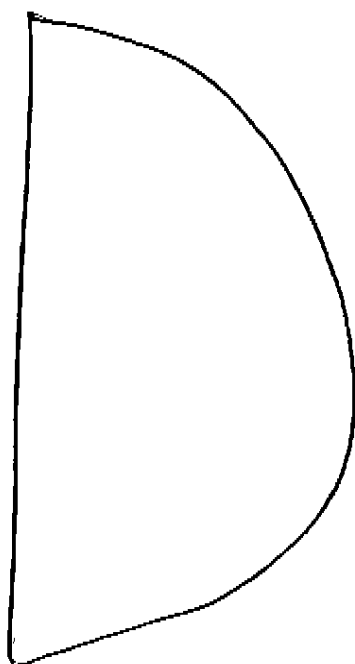
**E. A. Sween Company (Minnesota corporation)
16101 W. 78th St.
Eden Prairie, Minn. 55344**

**For: PREPACKAGED, PROCESSED CONVE-
NIENCE FOODS—NAMELY, MEAT AND
CHEESE SPECIALTY SANDWICHES, HOT
DOG SANDWICHES, BEEF BURGER
SANDWICHES, CHEESEBURGER
SANDWICHES, PIZZA, BURRITOS, SWEET
ROLLS, POPCORN, SEASONINGS, SUGAR,
COFFEE AND HOT CHOCOLATE, in CLASS 30
(U.S. Cl. 46).**

**First use Jul. 15, 1980; in commerce Jul. 15, 1980.
No claim is made to the exclusive right to use the
word "Deli", apart from the mark as shown.**

Ser. No. 274,436, filed Aug. 18, 1980.

D. J. FINGERET, Examining Attorney



Int. Cl.: 42

rior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 1,273,109

Registered Apr. 3, 1984

SERVICE MARK
Principal Register



E. A. Sween Company (Minnesota corporation)
16101 W. 78th St.
Eden Prairie, Minn. 55344

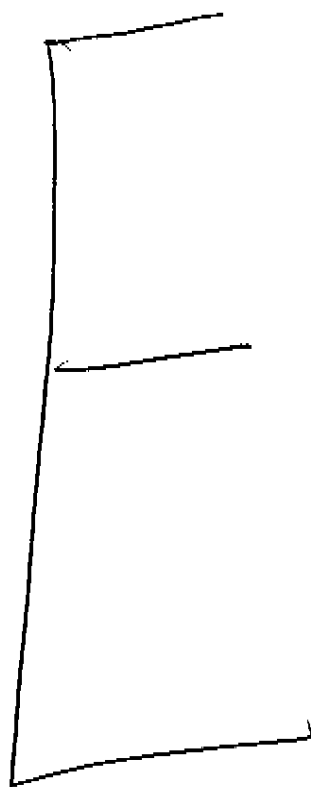
For: DISTRIBUTORSHIP SERVICES IN THE
FIELD OF PREPACKAGED PROCESSED CON-
VENIENCE FOODS, AND EQUIPMENT FOR
PREPARING SUCH FOODS, in CLASS 42 (U.S.
Cls. 100 and 101).

First use Jul. 15, 1980; in commerce Jul. 15, 1980.

No claim is made to the exclusive right to use the
word "Deli", apart from the mark as shown.

Ser. No. 276,902, filed Sep. 2, 1980.

JAMES H. JOHNSON, Examining Attorney



Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 1,280,049

Registered May 29, 1984

United States Patent and Trademark Office

TRADEMARK
Principal Register



E. A. Sween Company (Minnesota corporation)
16101 W. 78th St.
Eden Prairie, Minn. 55344

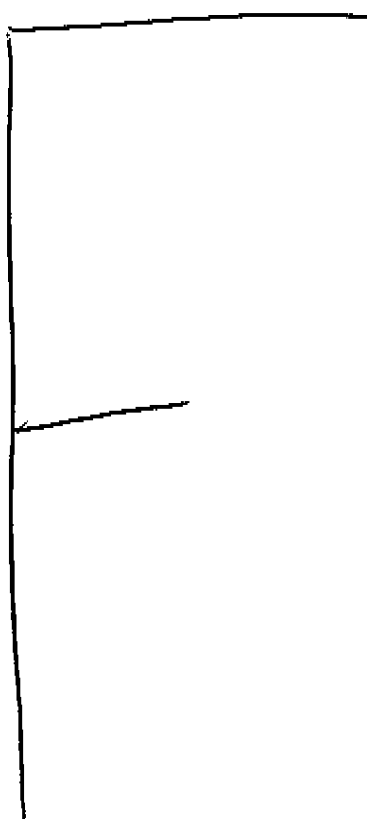
For: PREPACKAGED, PROCESSED CONVE-
NIENCE FOODS—NAMESLY, MEAT AND
CHEESE SPECIALTY SANDWICHES, HOT
DOG SANDWICHES, BEEF BURGER
SANDWICHES, CHEESEBURGER
SANDWICHES, PIZZA, BURRITOS, SWEET
ROLLS, SAUCES EXCLUDING APPLESAUCE
AND CRANBERRY SAUCE, SEASONINGS,
SAUSAGE AND BISCUIT SANDWICHES, SUG-
AR, COFFEE AND HOT CHOCOLATE, in
CLASS 30 (U.S. Cl. 46).

First use Jul. 15, 1980; in commerce Jul. 15, 1980.

No claim is made to the exclusive right to use the
word "Deli", apart from the mark as shown.

Ser. No. 277,008, filed Sep. 8, 1980.

D. J. FINGERET, Examining Attorney



Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 1,693,388

United States Patent and Trademark Office Registered June 9, 1992

**TRADEMARK
PRINCIPAL REGISTER**

DELI EXPRESS HOME STYLE

E. A. SWEEN COMPANY (MINNESOTA CORPORATION)
16101 WEST 78TH STREET
EDEN PRAIRIE, MN 55344

FOR: PREPACKAGED SANDWICHES, IN
CLASS 30 (U.S. CL. 46).

FIRST USE 5-0-1991; IN COMMERCE
5-0-1991.

OWNER OF U.S. REG. NOS. 1,265,869,
1,330,359, AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "DELI" AND "HOME STYLE",
APART FROM THE MARK AS SHOWN.

SN 74-092,816, FILED 8-30-1990.

WILLIAM P. SHANAHAN, EXAMINING ATTORNEY

G

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,544,922

United States Patent and Trademark Office

Registered Mar. 5, 2002

**TRADEMARK
PRINCIPAL REGISTER**

DELI EXPRESS

**E. A. SWEEN COMPANY (MINNESOTA COR-
PORATION)
16101 WEST 78TH STREET
EDEN PRAIRIE, MN 55344**

**OWNER OF U.S. REG. NOS. 1,220,359, 1,693,388
AND OTHERS.**

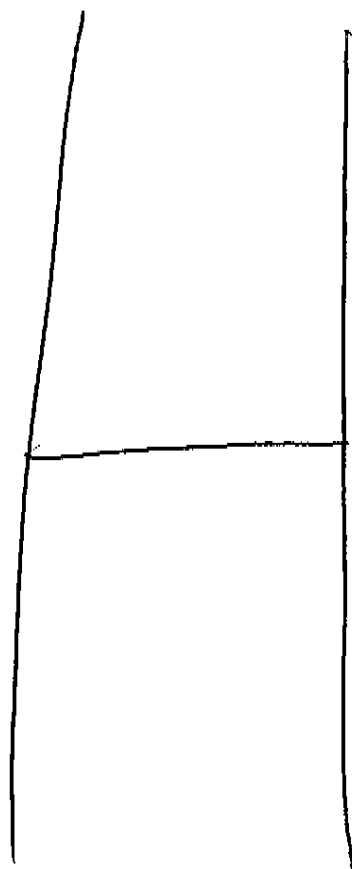
**FOR: SANDWICHES FOR CONSUMPTION ON
AND OFF THE PREMISES, IN CLASS 30 (U.S. CL. 46).**

**NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "DELI", APART FROM THE MARK
AS SHOWN.**

SER. NO. 76-259,229, FILED 5-18-2001.

FIRST USE 7-15-1980; IN COMMERCE 7-15-1980.

ROBERT LORENZO, EXAMINING ATTORNEY



Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,591,258

Registered July 9, 2002

United States Patent and Trademark Office

**TRADEMARK
PRINCIPAL REGISTER**



E. A. SWEEN COMPANY (MINNESOTA CORPORATION)
16101 WEST 78TH STREET
EDEN PRAIRIE, MN 55344

FOR: SANDWICHES FOR CONSUMPTION ON
AND OFF THE PREMISES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 7-15-1980; IN COMMERCE 7-15-1980.

OWNER OF U.S. REG. NOS. 1,220,359, 1,693,388
AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "DELI", APART FROM THE MARK
AS SHOWN.

SER. NO. 76-259,301, FILED 5-18-2001.

ROBERT LORENZO, EXAMINING ATTORNEY

I

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,759,045

Registered Sep. 2, 2003

**TRADEMARK
PRINCIPAL REGISTER**

DELI EXPRESS

**E. A. SWEEN COMPANY (MINNESOTA COR-
PORATION)
16101 W. 78TH STREET
EDEN PRAIRIE, MN 55344**

**FOR: SNACK FOODS, NAMELY, MEAT, IN
CLASS 29 (U.S. CL. 46).**

FIRST USE 6-8-2001; IN COMMERCE 6-8-2001.

**OWNER OF U.S. REG. NOS. 1,220,359, 2,591,258
AND OTHERS.**

**NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "DELI", APART FROM THE MARK
AS SHOWN.**

SER. NO. 78-179,031, FILED 10-28-2002.

SHANNA WINTERS, EXAMINING ATTORNEY

J

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,837,054

Registered Apr. 27, 2004

**TRADEMARK
PRINCIPAL REGISTER**

DELI EXPRESS SUB SELECTS

**E. A. SWEEN COMPANY (MINNESOTA COR-
PORATION)**

**16101 W. 78TH STREET
EDEN PRAIRIE, MN 55344**

**FOR: SANDWICHES FOR CONSUMPTION ON
AND OFF THE PREMISES, IN CLASS 30 (U.S. CL. 46).**

FIRST USE 10-7-2002; IN COMMERCE 10-7-2002.

**OWNER OF U.S. REG. NOS. 1,220,359, 2,591,258,
AND OTHERS.**

**NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "DELI" AND "SUB", APART FROM
THE MARK AS SHOWN.**

SN 76-444,597, FILED 8-28-2002.

ZHALEH DELANEY, EXAMINING ATTORNEY

K

Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 2,859,981

Registered July 6, 2004

**SERVICE MARK
PRINCIPAL REGISTER**

DELI EXPRESS

**E. A. SWEBB COMPANY (MINNESOTA CORPORATION)
16101 W. 78TH STREET
EDEN PRAIRIE, MN 55344**

**NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "DELI", APART FROM THE MARK
AS SHOWN.**

**FOR: RETAIL CONVENIENCE STORES, IN
CLASS 35 (U.S. CLS. 100, 101 AND 102).**

SER. NO. 78-179,039, FILED 10-28-2002.

FIRST USE 7-0-1981; IN COMMERCE 7-0-1981.

**OWNER OF U.S. REG. NOS. 1,220,359, 2,591,258
AND OTHERS.**

MARIA-VICTORIA SUAREZ, EXAMINING ATTORNEY

L

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,886,261

Registered Sep. 21, 2004

**TRADEMARK
PRINCIPAL REGISTER**



**E.A. SWEEN COMPANY (MINNESOTA CORPORATION)
16101 W. 78TH STREET
EDEN PRAIRIE, MN 55344**

**NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "DELI", APART FROM THE MARK
AS SHOWN.**

**FOR: SNACK FOODS, NAMELY, MEAT, IN
CLASS 29 (U.S. CL. 46).**

THE LINING IS A FEATURE OF THE MARK.

FIRST USE 6-8-2001; IN COMMERCE 6-8-2001.

SER. NO. 78-179,034, FILED 10-28-2002.

**OWNER OF U.S. REG. NOS. 1,220,359, 2,591,258
AND OTHERS.**

**MARIA-VICTORIA SUAREZ, EXAMINING ATTOR-
NEY**

M

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,910,324

Registered Dec. 14, 2004

**SERVICE MARK
PRINCIPAL REGISTER**

DELI EXPRESS

**E. A. SWEEN COMPANY (MINNESOTA COR-
PORATION)
16101 W. 78TH STREET
EDEN PRAIRIE, MN 55344**

**NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "DELI", APART FROM THE MARK
AS SHOWN.**

**FOR: FAST FOOD RESTAURANT SERVICES, IN
CLASS 43 (U.S. CLS. 100 AND 101).**

SER. NO. 78-179,024, FILED 10-28-2002.

FIRST USE 8-0-1980; IN COMMERCE 8-0-1980.

**OWNER OF U.S. REG. NOS. 1,220,359, 2,591,258
AND OTHERS.**

**MARIA-VICTORIA SUAREZ, EXAMINING ATTOR-
NEY**

N

Int. Cl.: 30

Prior U.S. CL: 46

United States Patent and Trademark Office

Reg. No. 2,962,330

Registered June 14, 2005

**TRADEMARK
PRINCIPAL REGISTER**

DELI EXPRESS

**E.A. SWEEN COMPANY (MINNESOTA CORPORATION)
16101 WEST 78TH STREET
EDEN PRAIRIE, MN 55344**

**OWNER OF U.S. REG. NOS. 1,220,359, 2,759,045
AND OTHERS.**

**FOR: SANDWICHES, MUFFINS, CAKES, ROLLS,
TURNOVERS, DONUTS, AND CAPPUCCINO, IN
CLASS 30 (U.S. CL. 46).**

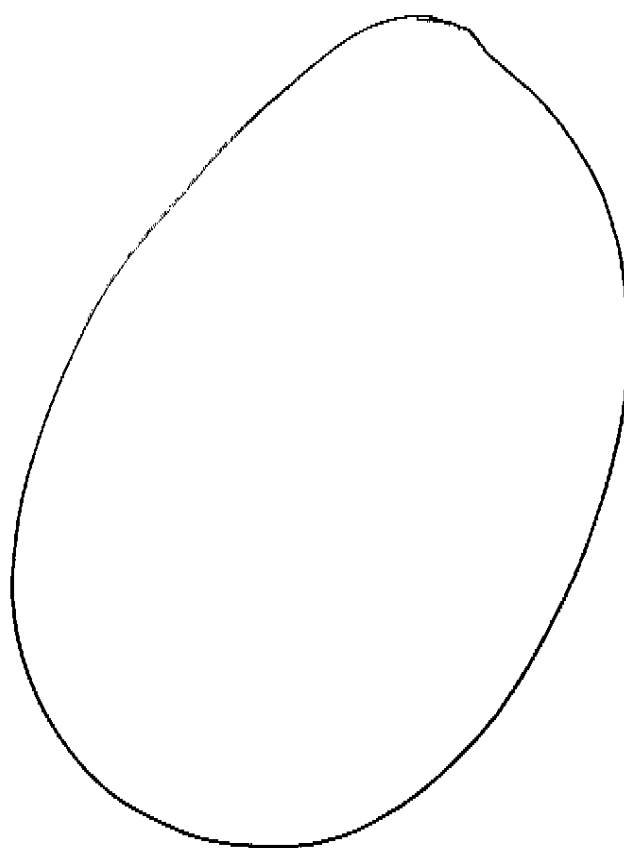
**NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "DELI", APART FROM THE MARK
AS SHOWN.**

FIRST USE 7-15-1980; IN COMMERCE 7-15-1980.

SER. NO. 78-353,382, FILED 1-16-2004.

**THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.**

RENEE MCCRAY, EXAMINING ATTORNEY



Int. Cl.: 11

Prior U.S. Cls.: 13, 21, 23, 31 and 34

Reg. No. 3,079,600

United States Patent and Trademark Office

Registered Apr. 11, 2006

**TRADEMARK
PRINCIPAL REGISTER**

DELI EXPRESS

**E.A. SWEEN COMPANY (MINNESOTA CORPORATION)
16101 WEST 78TH STREET
EDEN PRAIRIE, MN 55344**

**OWNER OF U.S. REG. NOS. 1,265,869, 1,280,049
AND OTHERS.**

**FOR: MICROWAVE OVENS FOR COOKING, IN
CLASS 11 (U.S. CLS. 13, 21, 23, 31 AND 34).**

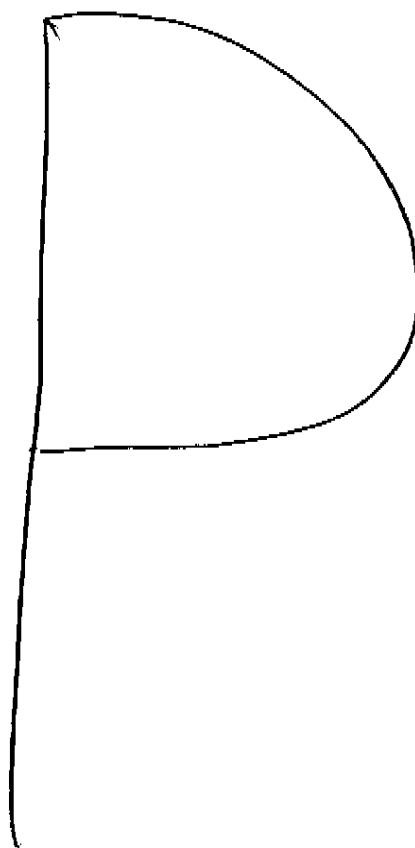
**NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "EXPRESS", APART FROM THE
MARK AS SHOWN.**

FIRST USE 7-15-1980; IN COMMERCE 7-15-1980.

SER. NO. 78-612,881, FILED 4-20-2005.

**THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.**

**MATTHEW MCDOWELL, EXAMINING ATTOR-
NEY**



Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,103,557

Registered June 13, 2006

**TRADEMARK
PRINCIPAL REGISTER**



E.A. SWEEN COMPANY (MINNESOTA CORPORATION)
16101 W. 78TH STREET
EDEN PRAIRIE, MN 55344

FOR: SANDWICHES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 4-4-2005; IN COMMERCE 4-4-2005.

OWNER OF U.S. REG. NOS. 1,220,359, 2,962,330 AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DELI," "TORPEDO" AND "FAMILY OWNED SINCE 1955", APART FROM THE MARK AS SHOWN.

THE COLOR(S) RED, YELLOW, BROWN, BLACK, GOLD, AND WHITE IS/ARE CLAIMED AS A FEATURE OF THE MARK.

THE MARK CONSISTS OF THE WORD TORPEDO APPEARS IN GOLD. THE BORDER OF THE CENTRAL OVAL, THE TWO DOTS ON THE OVAL, AND THE BORDER OF THE EXTERIOR RECTANGLE ARE GOLD. THE CENTRAL OVAL IS BROWN ON A WHITE BACKGROUND. THE WORDS "DELI EXPRESS" ARE BROWN AND APPEAR ON A ROUNDED YELLOW SHAPE. THE ROUNDED YELLOW SHAPE IS OUTLINED IN RED AND BROWN AND CENTERED ON A RED POLYGON. THE WORDING "FAMILY OWNED SINCE 1955" IS WRITTEN IN YELLOW ON THE RED POLYGON.

SER. NO. 78-602,115, FILED 4-5-2005.

DORITT L. CARROLL, EXAMINING ATTORNEY

